

Mandates Act for rules with significant economic impacts or that impose significant unfunded mandates on States. Also, we believe the changes being promulgated in this document will have very little direct impact on small entities as defined under the RFA or on small rural hospitals as defined under section 1102(b) of the Social Security Act. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

#### Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct costs on State and local governments, preempts State law, or otherwise has federalism implications. The option for States to extend coverage to unborn children promulgated in this proposed rule does not meet the criteria for having Federalism implications. This provision would not impose direct costs on states or local governments, nor does it preempt State laws. This new option only increases State flexibility and, therefore, prior consultation is not required. However, we welcome input from State and local governments through the notice and comment process.

#### List of Subjects in 42 CFR Part 457

Administrative practice and procedure, Grant programs—health, Children's Health Insurance Program, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 42 CFR part 457 is proposed to be amended as set forth below:

#### PART 457—ALLOTMENTS AND GRANTS TO STATES

1. The authority citation for part 457 continues to read as follows:

**Authority:** Section 1102 of the Social Security Act (42 U.S.C. 1302).

#### Subpart A—Introduction; State Plans for Child Health Insurance Programs and Outreach Strategies

2. In § 457.10, the definition of "Child" is revised to read as follows:

#### § 457.10 Definitions and use of terms.

\* \* \* \* \*

Child means an individual under the age of 19 including the period from conception to birth.

\* \* \* \* \*

#### Subpart C—State Plan Requirements: Eligibility, Screening, Applications, and Enrollment

3. Amend § 457.350 as follows:

A. Redesignate the text of paragraph (b) following the heading as paragraph (b)(1).

B. Add paragraph (b)(2) to read as follows:

#### § 457.350 Eligibility screening and facilitation of Medicaid enrollment.

\* \* \* \* \*

(b) Screening objectives. (1) \* \* \*

(2) Screening procedures must also identify any applicant or enrollee who would be potentially eligible for Medicaid services based on the eligibility of his or her mother under one of the poverty level groups described in 1902(l) of the Act, section 1931 of the Act or a Medicaid demonstration project approved under section 1115 of the Act.

\* \* \* \* \*

#### Subpart F—Payment to States

4. Revise § 457.622(c)(5) to read as follows:

#### § 457.622 Rate of FFP for State expenditures.

\* \* \* \* \*

(c) \* \* \*

(5) The state does not adopt eligibility standards and methodologies for purposes of determining a child's eligibility under the Medicaid State plan that were more restrictive than those applied under policies of the State plan in effect on June 1, 1997. This limitation applies also to more restrictive standards and methodologies for determining eligibility for services for a child based on the eligibility of a pregnant woman.

\* \* \* \* \*

5. Amend § 457.626 to add a new paragraph (a)(3) to read as follows:

#### § 457.626 Prevention of duplicate payments.

(a) \* \* \*

(3) Services are for an unborn child and are payable under Medicaid as a service to an eligible pregnant woman under that program.

\* \* \* \* \*

(Catalog of Federal Domestic Assistance Program No. 93.767, State Children's Health Insurance Program)

Dated: February 18, 2002.

**Thomas A. Scully,**  
Administrator, Centers for Medicare & Medicaid Services.

Approved: February 22, 2002.

**Tommy G. Thompson,**  
Secretary.

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#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

46 CFR Parts 28, 109, 122, 131, 69, 185, and 199

[USCG-2001-11118]

RIN 2115-AG28

#### Liferaft Servicing Intervals

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend its commercial vessel regulations to provide consistency in the requirements for servicing of inflatable liferafts and inflatable buoyant apparatus (IBA). We are proposing this rule to eliminate an unnecessary burden on vessel operators and to eliminate confusion among the public and Coast Guard field personnel. The proposed rule would defer the first servicing of a new liferaft or IBA to two years after initial packing on all commercial vessels not certificated under the International Convention for the Safety of Life at Sea (SOLAS).

**DATES:** Comments and related material must reach the Docket Management Facility on or before May 6, 2002.

**ADDRESSES:** To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG-2001-11118), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this

rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, contact Kurt Heinz, Coast Guard, telephone 202-267-1444; e-mail [kheinz@comdt.uscg.mil](mailto:kheinz@comdt.uscg.mil). If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG-2001-11118), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the *Federal Register*.

##### Background and Purpose

In 1991, we published a final rule in the *Federal Register* that marked a

change—albeit limited to certain vessels—in the timing of initial servicing of liferafts. (56 FR 40364, August 14, 1991). In addition to including first-time requirements that certain uninspected commercial fishing industry vessels must carry inflatable survival craft (inflatable liferafts, or inflatable buoyant apparatus (IBAs)), those safety regulations, at 46 CFR chapter I, subchapter C, part 28, allowed the first servicing of new liferafts or IBAs on these vessels to be deferred to two years from date of manufacture.

Historically, liferafts and IBAs have been required to be serviced annually by an approved servicing facility in order to ensure that they remain in operational condition. This 1991 final rule allowed the first servicing of new liferafts or IBAs on uninspected commercial fishing industry vessels to be deferred to two years, instead of one, to lessen the new rule's initial financial impact on the industry. This was responsive to comments on the NPRM concerning the cost of annually servicing inflatable survival craft as is required for inspected vessels.

The Coast Guard considered this allowance to be low risk for two reasons: The stringent production testing and inspections of new liferafts, and a lack of past operational problems associated with new liferafts. In fact, in the more than 10 years since the final rule was published, the Coast Guard is not aware of any operational problems with liferafts or IBAs related to the deferral of first servicing as permitted by the rule.

Three years after publishing the commercial fishing industry vessel final rule, we published an NPRM (59 FR 52590, October 18, 1994) that proposed a complete revision of the inflatable liferaft regulations in 46 CFR subchapter Q. Unlike subchapter C, these proposed regulations were not tied to a specific type of commercial vessel.

Based on the success of the same allowance in the fishing industry vessel final rule, the 1994 NPRM proposed to allow the first servicing of a new inflatable liferaft to be deferred to two years from the date of manufacture on any ship not certificated under the International Convention for the Safety of Life at Sea, 1974 (SOLAS). (International convention requires that inflatable liferafts on ships certificated under SOLAS be serviced annually.) Because IBAs would be subject to the same servicing requirements as inflatable liferafts, by reference to proposed 46 CFR subpart 160.151 in proposed 46 CFR 160.010-3(c), the proposal would apply to IBAs as well.

In 1997, we published a subchapter Q final rule containing a complete revision of the inflatable liferaft regulations, in a new 46 CFR subpart 160.151. (62 FR 25525, May 9, 1997). These new regulations included the allowance for the first servicing of a new liferaft on a non-SOLAS ship to be deferred to two years from the date of manufacture under certain specified conditions. As stated in the preamble to the final rule at 62 FR 25535, "The Coast Guard considers this extension to be low-risk in view of the stringent production testing to which new liferafts are subjected, and so these final rules extend its application to new liferafts on all vessels not SOLAS-certificated."

Unfortunately, the timing of several unrelated and independent rulemaking projects did not permit this clearly stated intent to be reflected in all of the various vessel subparts in 46 CFR. Although the liferaft final rule did include a conforming amendment to the then-recently published interim rule on lifesaving equipment in 46 CFR subchapter W (61 FR 25272, May 20, 1996)—updating 46 CFR 199.190(g)(3)(i) to correctly reference the servicing procedures in the new liferaft regulations—it left intact 46 CFR 199.190(g)(1)(i), which still specifies servicing every 12 months for "inflatable lifesaving appliances." Substantially similar language may be found in subchapter I-A at 46 CFR 109.301(g), subchapter K at 46 CFR 122.730(a), and subchapter T at 46 CFR 185.730(a). The relevant portions of all of these subchapters were in the late stages of various rulemaking projects at the time the new inflatable liferaft regulations were published, and it was not considered feasible to add substantive changes, which had not been included at the NPRM stage.

In addition, although the subchapter W rulemaking replaced all of the lifesaving requirements for public nautical school ships and civilian nautical school vessels in parts 167 and 168 of subchapter R, it did not affect the lifesaving requirements for sailing school vessels in part 169 of that subchapter. Section 169.837(b)(4) in subchapter R still requires that liferafts on sailing school vessels be serviced every 12 months.

Soon after the subchapter Q final rule was published, we were able to amend the liferaft servicing requirement in subchapter L, for offshore supply vessels (62 FR 49308, 49345, September 19, 1997). The following table lists the eight subchapters we have been discussing, along with the current and proposed standards.

## CURRENT AND PROPOSED INTERVALS FOR INITIAL SERVICING OF LIFERAFTS ON COMMERCIAL, NON-SOLAS VESSELS

46 CFR, Chapter I, subchapter (and section)	Current first servicing (in months)	Proposed first servicing (in months)
Subchapter C: Uninspected Commercial Fishing Industry Vessels (46 CFR 28.140) .....	24	
Subchapter I-A: Mobile offshore drilling units (MODUs) (46 CFR 109.301) .....	12	*24
Subchapter K: Small passenger vessels carrying more than 150 passengers or with overnight accommodations for more than 49 passengers (46 CFR 122.730) .....	12 months	*24
Subchapter L: Offshore Supply Vessels (46 CFR 131.580) .....	24	*24
Subchapter Q: Equipment, Construction, and Materials: Specifications and Approval (46 CFR 160.151-57) .....	24	24
Subchapter R: Part 169, Sailing school vessels (46 CFR 169.837) .....	12	*24
Subchapter T: Small passenger vessels (under 100 gross tons) (46 CFR 185.730) .....	12 months	*24
Subchapter W: Lifesaving appliances and arrangements for all inspected U.S. vessels except for (1) offshore supply vessels, (2) MODUs, (3) sailing school vessels, and (4) small passenger vessels (46 CFR 199.190)	* 12	*24

\* Servicing may be delayed up to an additional five months until the next scheduled vessel inspection.

### Discussion of Proposed Rule

The inconsistency between the servicing interval specified in the liferaft regulations in subchapter Q and those specified in the various vessel subchapters has been the cause of some confusion, and resulted in some cases in new liferafts being serviced unnecessarily. This NPRM proposes to resolve the inconsistencies by harmonizing the servicing intervals specified in subchapters I-A, K, R, T, and W with the general requirement in the liferaft regulations at 46 CFR 160.151-57 in subchapter Q, consistent with the stated intent of that regulation. This would eliminate the confusion caused by ambiguous or conflicting provisions in the various commercial vessel regulations, and reduce the burden on the public by avoiding potential unnecessary servicing of new inflatable liferafts.

In addition, to maintain internal consistency, changes are proposed to sections 169.513(b) and 169.531 in 46 CFR subchapter R to update or remove references to obsolete liferaft regulations. The currently cited regulations no longer exist, and the specified liferafts are no longer approved for manufacture. The proposed changes would require the analogous types of liferafts, that are approved and manufactured under current regulations, but would allow existing liferafts on the vessel to remain in use as long as they are in good and serviceable condition. Also, conforming editorial changes are proposed to the commercial fishing industry vessel regulations in 46 CFR subchapter C, and to subchapter L, to harmonize the specific wording between the various individual vessel subchapters to the extent possible.

Because of its unique structure, subchapter W, which contains liferaft-servicing requirements referenced by various subchapters, necessitates a

slightly different approach than the other vessel subchapters. Amendments are being proposed for two sections in subchapter W, 46 CFR 199.190 and 199.620. Included in these changes is a proposed correction to an existing error in table 199.620(a) in section 199.620—changing “199.621” to “199.261” in the last table entry.

### Regulatory Evaluation

This proposed rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential benefits and costs under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). A detailed, draft analysis supporting this conclusion is available in the docket as indicated under **ADDRESSES**. A summary of that analysis follows:

**Assessment:** We analyzed benefits and costs of deferring the first liferaft servicing to 2 years (instead of 1 year) after initial packing for any non-SOLAS vessel subject to the liferaft servicing requirements in subchapters I-A, K, R, T, or W. There are 5,965 vessels that would be affected, for which we assume a zero population growth rate. Furthermore, we assume that vessels would carry 25-person liferafts with an average lifespan of 12 years. Because the vessels have various crew and passenger capacities, the number of liferafts carried by each vessel differs. We assume that vessels subject to the liferaft servicing requirements in subchapters I-A, K, R, T, and W carry one, eight, two, three, and two 25-person liferafts, respectively.

**Benefits:** The total present value benefit for the proposed rule for the 10-year period would be \$7,700,824 (7

percent discount rate). Owners and operators of affected vessels would accrue benefits as reduced operating costs. These benefits are a function of (1) the number of liferafts that would no longer be serviced the first year after manufacture and (2) the fees imposed by the servicing companies.

In addition, we recognize that other benefits of the proposed rule exist but cannot be quantified, particularly the easing of confusion of both the public and Coast Guard personnel caused by vague and conflicting provisions. Furthermore, vessel owners would benefit by eliminating the opportunity cost of time associated with liferaft servicing during the first year after manufacture. Therefore, the total benefits may be higher if the qualitative benefits were represented in monetary terms.

**Costs:** The proposed rule would not impose costs on vessel owners and operators. No increase in the number of accidents is expected to occur. The revised liferaft servicing allowance is considered low risk in view of the stringent production testing and inspections to which new liferafts are subjected, and there being no history of operational problems associated with new liferafts where servicing has been deferred on commercial fishing industry vessels.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule

would not have a significant economic impact on a substantial number of small entities because there are no costs to vessel owners/operators associated with the proposed rule.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Kurt Heinz at 202-267-1444.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### **Collection of Information**

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### **Federalism**

We have analyzed this proposed rule under Executive Order 13132, Federalism, and have determined that it does not have implications for federalism under that Order.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more

in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### **Taking of Private Property**

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### **Civil Justice Reform**

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### **Protection of Children**

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### **Indian Tribal Governments**

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

#### **Energy Effects**

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect

on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### **Environment**

We have considered the environmental impact of this proposed rule and concluded that under figure 2-1, paragraph (34)(d), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This proposed rule would resolve the inconsistencies in inspection intervals for liferaft servicing and therefore would not have any impact on the environment. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

#### **List of Subjects**

##### *46 CFR Part 28*

Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

##### *46 CFR Part 109*

Marine safety, Occupational safety and health, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

##### *46 CFR Part 122*

Alcohol and alcoholic beverages, Drugs, Hazardous materials, Marine safety, Navigation (water), Passenger vessels, Reporting and recordkeeping requirements.

##### *46 CFR Part 131*

Hazardous materials transportation, Marine safety, Navigation (water), Offshore supply vessels, Oil and gas exploration, Operations, Penalties, Reporting and recordkeeping requirements, Vessels.

##### *46 CFR Part 169*

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

##### *46 CFR Part 185*

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

##### *46 CFR Part 199*

Cargo vessels, Incorporation by reference, Marine safety, Oil and gas exploration, Passenger vessels, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR parts 28, 109, 122, 131, 169, 185, and 199 as follows:

## PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

1. The authority citation for part 28 continues to read as follows:

**Authority:** 46 U.S.C. 3316, 4502, 4505, 4506, 6104, 10603; 49 CFR 1.46.

2. In § 28.140, revise paragraphs (b) and (c), and table 28.140 to read as follows:

### § 28.140 Operational readiness, maintenance, and inspection of lifesaving equipment.

\* \* \* \* \*

(b) Each item of lifesaving equipment, including unapproved equipment, must be maintained and inspected in accordance with:

- (1) Table 28.140 in this section;
- (2) The servicing procedure under the subpart of this chapter applicable to the item's approval; and

(3) The manufacturer's guidelines.

(c) An inflatable liferaft or inflatable buoyant apparatus must be serviced no later than the month and year on its servicing sticker affixed under 46 CFR 160.151–57(n), and whenever the container is damaged or the container straps or seals are broken. It must be serviced at a facility specifically approved by the Commandant for the particular brand.

\* \* \* \* \*

TABLE 28.140.—SCHEDULED MAINTENANCE AND INSPECTION OF LIFESAVING EQUIPMENT

Item	Interval		Regulation
	Monthly	Annually	
(1) Inflatable wearable personal flotation device (Type V commercial hybrid).	.....	Servicing .....	28.140.
(2) Personal flotation devices, exposure suits and immersion suits.	.....	Inspect, clean and repair as necessary.	28.140.
(3) Buoyant apparatus and life floats .....	.....	Inspect, clean and repair as necessary.	28.140.
(4) Inflatable liferaft .....	.....	Servicing <sup>1</sup> .....	28.140.
(5) Inflatable buoyant apparatus .....	.....	Servicing <sup>1</sup> .....	28.140.
(6) Hydrostatic release .....	.....	Servicing .....	28.140.
(7) Disposable hydrostatic release .....	.....	Replace on or before expiration date.	28.140.
(8) Undated batteries .....	.....	Replace .....	28.140.
(9) Dated batteries <sup>2</sup> and other items .....	.....	Replace on or before expiration date.	25.26–5, 28.140.
(10) EPIRB .....	Test .....	.....	25.26–5.

<sup>1</sup> For a new liferaft or inflatable buoyant apparatus, the first annual servicing may be deferred to two years from the date of first packing if so indicated on the servicing sticker.

<sup>2</sup> Water activated batteries must be replaced whenever they are used.

## PART 109—OPERATIONS

3. The authority citation for part 109 continues to read as follows:

**Authority:** 43 U.S.C. 1333; 46 U.S.C. 3306, 6101, 10104; 49 CFR 1.46.

4. In § 109.301, revise paragraph (g)(3) to read as follows:

### § 109.301 Operational readiness, maintenance, and inspection of lifesaving equipment.

\* \* \* \* \*

(g) \* \* \*

(3) An inflatable liferaft must be serviced at a facility specifically approved by the Commandant for the particular brand, and in accordance with servicing procedures meeting the requirements of part 160, subpart 160.151, of this chapter—

(i) No later than the month and year on its servicing sticker affixed under 46 CFR 160.151–57(n), except that servicing may be delayed until the next scheduled inspection of the unit, provided that the delay does not exceed 5 months; and

(ii) Whenever the container is damaged or the container straps or seals are broken.

\* \* \* \* \*

## PART 122—OPERATIONS

5. The authority citation for part 122 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 6101; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

6. In § 122.730, revise paragraphs (a) and (b) to read as follows:

### § 122.730 Servicing of inflatable liferafts, inflatable buoyant apparatus, inflatable life jackets and inflated rescue boats.

(a) An inflatable liferaft or inflatable buoyant apparatus must be serviced at a facility specifically approved by the Commandant for the particular brand, and in accordance with servicing procedures meeting the requirements of part 160, subpart 160.151, of this chapter—

(1) No later than the month and year on its servicing sticker affixed under 46 CFR 160.151–57(n), except that

servicing may be delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months; and

(2) Whenever the container is damaged or the container straps or seals are broken.

(b) Each inflatable lifejacket and hybrid inflatable lifejacket or work vest must be serviced:

(1) Within 12 months of its initial packing; and

(2) Within 12 months of each subsequent servicing, except that servicing may be delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months.

\* \* \* \* \*

## PART 131—OPERATIONS

7. The authority citation for part 131 continues to read as follows:

**Authority:** 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101, 10104; E.O. 12234, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

8. In § 131.580, revise paragraphs (a) and (b) to read as follows:

**§ 131.580 Servicing of inflatable liferafts, inflatable lifejackets, inflatable buoyant apparatus, and inflated rescue boats.**

(a) An inflatable liferaft or inflatable buoyant apparatus must be serviced at a facility specifically approved by the Commandant for the particular brand, and in accordance with servicing procedures meeting the requirements of part 160, subpart 160.151, of this chapter—

(1) No later than the month and year on its servicing sticker affixed under 46 CFR 160.151–57(n), except that servicing may be delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months; and

(2) Whenever the container is damaged or the container straps or seals are broken.

(b) Each inflatable lifejacket and hybrid inflatable lifejacket or work vest must be serviced:

(1) Within 12 months of its initial packing; and

(2) Within 12 months of each subsequent servicing, except that servicing may be delayed until the next scheduled inspection of the OSV, provided that the delay does not exceed 5 months.

\* \* \* \* \*

**PART 169—SAILING SCHOOL VESSELS**

9. The authority citation for part 169 continues to read as follows:

**Authority:** 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3307, 6101; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.45, 1.46; § 169.117 also issued under the authority of 44 U.S.C. 3507.

10. In § 169.513, revise paragraph (b) to read as follows:

**§ 169.513 Types of primary equipment.**

\* \* \* \* \*

(b) *Inflatable liferafts.* (1) Each inflatable liferaft must be a SOLAS A inflatable liferaft approved under part 160, subpart 160.151, of this chapter, except that inflatable liferafts on vessels operating on protected or partially protected waters may be SOLAS B inflatable liferafts approved under part 160, subpart 160.151, of this chapter.

(2) Each approved inflatable liferaft on the vessel on [EFFECTIVE DATE OF THE FINAL RULE] may be used to meet the requirements of this part as long as it is continued in use on the vessel, and is in good and serviceable condition.”

\* \* \* \* \*

**§ 169.531 [Removed]**

11. Remove § 169.531.

12. In § 169.837, revise paragraph (b)(4) to read as follows:

**§ 169.837 Lifeboats, liferafts, and lifeboats.**

\* \* \* \* \*

(b) \* \* \*

(4) Each inflatable liferaft has been serviced at a facility specifically approved by the Commandant for the particular brand, and in accordance with servicing procedures meeting the requirements of part 160, part 160.151, of this chapter—

(i) No later than the month and year on its servicing sticker affixed under 46 CFR 160.151–57(n), except that servicing may be delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months; and

(ii) Whenever the container is damaged or the container straps or seals are broken.

**PART 185—OPERATIONS**

13. The authority citation for part 185 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 6101; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

14. In § 185.730, revise paragraphs (a) and (b) to read as follows:

**§ 185.730 Servicing of inflatable liferafts, inflatable buoyant apparatus, inflatable life jackets, and inflated rescue boats.**

(a) An inflatable liferaft or inflatable buoyant apparatus must be serviced at a facility specifically approved by the Commandant for the particular brand, and in accordance with servicing procedures meeting the requirements of part 160, subpart 160.151, of this chapter—

(1) No later than the month and year on its servicing sticker affixed under 46 CFR 160.151–57(n), except that servicing may be delayed until the next scheduled inspection of the vessel,

provided that the delay does not exceed 5 months; and

(2) Whenever the container is damaged or the container straps or seals are broken.

(b) Each inflatable lifejacket and hybrid inflatable lifejacket or work vest must be serviced:

(1) Within 12 months of its initial packing; and

(2) Within 12 months of each subsequent servicing, except that servicing may be delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months.

\* \* \* \* \*

**PART 199—LIFESAVING SYSTEMS FOR CERTAIN INSPECTED VESSELS**

15. The authority citation for part 199 continues to read as follows:

**Authority:** 46 U.S.C. 3306, 3307, 3703; 49 CFR 1.46.

16. In § 199.190, revise paragraph (g)(3) to read as follows:

**§ 199.190 Operational readiness, maintenance, and inspection of lifesaving equipment.**

\* \* \* \* \*

(g) \* \* \*

(3) An inflatable liferaft or inflatable buoyant apparatus must be serviced at a facility specifically approved by the Commandant for the particular brand, and in accordance with servicing procedures meeting the requirements of part 160, subpart 160.151, of this chapter—

(i) No later than the month and year on its servicing sticker affixed under 46 CFR 160.151–57(n), except that servicing may be delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months; and

(ii) Whenever the container is damaged or the container straps or seals are broken.

\* \* \* \* \*

17. In § 199.620, in paragraph (a), revise table 199.620(a) and add a new paragraph (q) as follows: *§ 199.620 Alternatives for all vessels in a specified service.*

\* \* \* \* \*

TABLE 199.620(A).—ALTERNATIVE REQUIREMENTS FOR ALL VESSELS IN A SPECIFIED SERVICE

Section or paragraph in this part:	Service and reference to alternative requirement section or paragraph				
	Oceans	Coastwise	Great Lakes	Lakes, Bays and Sounds	Rivers
199.70(a): Lifebuoy approval series.	199.620(b) <sup>1</sup> .....	199.620(b) <sup>1</sup> .....	199.620(b) .....	199.620(b) .....	199.620(b).

TABLE 199.620(A).—ALTERNATIVE REQUIREMENTS FOR ALL VESSELS IN A SPECIFIED SERVICE—Continued

Section or paragraph in this part:	Service and reference to alternative requirement section or paragraph				
	Oceans	Coastwise	Great Lakes	Lakes, Bays and Sounds	Rivers
199.70(b): Lifejacket approval series.	199.620(c) <sup>2</sup> .....	199.620(c) <sup>2</sup> .....	199.620(c) .....	199.620(c) .....	199.620(c).
199.70(b)(1): Number of life-jackets carried.	No Alternative .....	199.620(d) .....	199.620(d) .....	199.620(d) .....	199.620(d).
199.70(b) (4)(i): Lifejacket light approval series.	No Alternative .....	199.620(e) .....	199.620(e) .....	Not Applicable .....	Not Applicable.
199.100(b): Manning of survival craft.	No Alternative .....	No Alternative .....	No Alternative .....	No Alternative .....	199.620(o).
199.110(f): Embarkation ladder	199.620(f) .....	199.620(f) .....	199.620(f) .....	199.620(f) .....	199.620(f).
199.130(b): Survival craft stowage position.	No Alternative .....	No Alternative .....	199.620(g) .....	199.620(g) .....	199.620(g).
199.170: Line-throwing appliance approval series.	199.620(h) <sup>2</sup> .....	199.620(h) <sup>3</sup> .....	Not Applicable .....	Not Applicable .....	Not Applicable.
199.175: Lifeboat, rescue boat, and rigid liferaft equipment.	199.620(i) <sup>4</sup> .....	199.620(i) .....	199.620(j) .....	199.620(j) .....	199.620(j).
199.180 Training and drills .....	199.620(p) .....	199.620(p) .....	199.620(p) .....	199.620(p) .....	199.620(p).
199.190: Spares and repair equipment.	199.620(n) .....	199.620(n) .....	199.620(n) .....	199.620(n) .....	199.620(n).
199.190 (g)(3): Service Intervals for inflatable liferaft or inflatable buoyant apparatus.	199.620(q) .....	199.620(q) .....	199.620(q) .....	199.620(q) .....	199.620(q).
199.201(a)(2) or 199.261: Inflatable liferaft equipment.	199.620(l) <sup>4</sup> .....	199.620(l) .....	199.620(l) .....	199.620(l) .....	199.620(l).
199.201(a)(2) or 199.261: Liferaft approval series.	No Alternative .....	199.620(k) .....	199.620(k) .....	199.620(k) .....	199.620(k).

<sup>1</sup> Alternative applies if lifebuoy is orange.<sup>2</sup> Alternative applies only to cargo vessels that are less than 500 tons gross tonnage.<sup>3</sup> Alternative applies to cargo vessels that are less than 500 tons gross tonnage and to all passenger vessels.<sup>4</sup> Alternative applies to passenger vessels limited to operating no more than 50 nautical miles from shore.

\* \* \* \* \*

(q) For a new liferaft or inflatable buoyant apparatus, the first annual servicing may be deferred to two years after initial packing if so indicated on the servicing sticker.

Dated: February 21, 2002.

Paul J. Pluta,

Rear Admiral, Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 95-31; FCC 02-44]

#### Reexamination of the Comparative Standards for Noncommercial Educational Applicants; Association of America's Public Television Stations' Motion for Stay of Low Power Television Auction (No. 81)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document solicits comments on how the Commission

should allocate and license "non-reserved" spectrum (*i.e.*, spectrum that has not been set aside for exclusive use by noncommercial educational broadcast stations) in which both commercial and noncommercial entities have an interest. The document is in response to a court decision *National Public Radio vs. FCC*.

**DATES:** Comments are due April 15, 2002; Reply comments are due May 15, 2002.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Eric J. Bash, Mass Media Bureau, Policy and Rules Division, (202) 418-2130 or [ebash@fcc.gov](mailto:ebash@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the *Second Further Notice of Proposed Rule Making* ("2FNPRM") in MM Docket No. 95-31, FCC 02-44, adopted February 14, 2002, and released February 25, 2002. The complete text of this 2FNPRM is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC and may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW., Room CY-B-

402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). This document is available in alternative formats (computer diskette, large print, audio cassette, and Braille). Persons who need documents in such formats may contact Brian Millin at (202) 418-7426, TTY (202) 418-7365, or [bmillin@fcc.gov](mailto:bmillin@fcc.gov).

## I. Introduction

1. We adopt this 2FNPRM to seek additional comment on the procedures the Commission should use to license "non-reserved" channels in which both commercial and noncommercial educational entities have an interest. In the year 2000, the Commission decided to resolve mutually exclusive applications between such entities by competitive bidding. The United States Court of Appeals for the D.C. Circuit has vacated that decision. We now seek additional comment to adopt new procedures to license non-reserved spectrum in which both commercial and noncommercial educational entities have an interest, consistent with the court's opinion, our statutory authority, and our responsibility to serve the public interest.